

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHENELLE SIMMONDS,

Defendant.

CRIMINAL NO. 2010-16 (RLF)

UNITED STATES' SENTENCING RECOMMENDATION

TO THE HONORABLE COURT:

COMES NOW the United States of America, through its undersigned attorneys, and very respectfully states and alleges as follows:

As background, defendant Chenelle Simmonds, was identified as a witness following the attempted armed robbery of a Wendy's restaurant on April 17, 2004, in St. Croix. That was based on her relationship with two of the suspects, Troy Moore and Angel Rodriguez. The security guard, Cuthbert Chapman, an off-duty Virgin Islands Police Officer, died on April 26, 2004, as a result of gunshot wounds sustained during the robbery.

Subsequently, during 2004 an initial indictment was returned in United States of America and The Government of The Virgin Islands v. Reinaldo Berrios, et. al., Crim. No. 2004-105 charging Berrios and Moore with various offenses, including carjacking and first degree murder that arose from the April 17, 2004, robbery. A Superseding Indictment added one additional offense. The Third Superseding Indictment was returned on May 31, 2006, and included Rodriguez as the third defendant.

During the course of the investigation, Simmons was called to testify as a witness before a federal grand jury on May 13, 2005. She next testified during Rodriguez' and Moore's jury trial on January 25, 2007. Her role as a trial witness was simply to explain to the jury the known aliases of Moore and Rodriguez. This was important because the two had made admissions of their involvement in the Wendy's robbery during recorded conversations while they were housed at the Metropolitan Detention Center, Guaynabo, Puerto Rico, awaiting trial. In those conversations, however, the parties referred to themselves using their aliases. For Moore they were "C Murder" and "O Murder," while Rodriguez used "Malungo" and "Dungo." Simmonds confirmed their aliases during her grand jury testimony.

When Simmonds testified during the trial on January 25, 2007, she contradicted almost all of her grand jury testimony denying she knew Rodriguez as "Dungo" and denying she knew Moore by any other name or alias. When the prosecutor questioned her about these disparities, Simmonds admitted to the Court she had perjured herself when she testified before the grand jury. She stated she gave false information because Virgin Islands Police Detective Richard Matthews offered to pay her, even though she never accept the money.

The United States indicted defendant on May 6, 2010, charging her with: Count One, Perjury, and Count Two, False Declarations Before Grand Jury Or Court, as a result of her false trial testimony before this Court. On December 3, 2010, she entered "straight" pleas to the charged offenses.

The statutory penalties for each of the charged offenses include imprisonment of not more than five (5) years a two hundred and fifty thousand dollar (\$250,000.00) fine, and so forth. A preliminary Sentencing Guideline calculation pursuant to §§ 2J1.3 and 2X3.1 suggests an adjusted

Base offense Level 27 which has a corresponding imprisonment range of 70-87 months. The statutory maximum period of imprisonment for the charged offenses, however, is 60 months. Considering the circumstances of this case the United States would recommend a sentence of imprisonment of forty-eight (48) months.

The case against Troy Moore and Angel Rodriguez involved murder charges and was, undoubtedly, an extremely serious matter. Arguably, Simmonds was well aware of the potential consequences of providing false testimony. It could only have been intended to help the defendants succeed in their case and be absolved of the criminal charges. Her actions could have not only derailed the trial but did cast dispersions on the character and credibility of a Virgin Islands law enforcement officer. Fortunately, the facts of the case prevailed and a jury found defendants guilty of various offenses. Defendant Chenelle Simmons' intentional false and misleading testimony before this Court deserves serious attention from this Court.

Wherefore, the United States recommends the Court sentenced defendant to imprisonment for a term of forty-eight (48) months and any other punishment it deems appropriate.

In San Juan, Puerto Rico, this 21st day of January 2011.

Respectfully submitted,

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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that on this date I electronically filed the foregoing United States' Sentencing Recommendation with the Clerk of the Court using the CM/ECF system, which will send notification of such filing.

In San Juan, Puerto Rico, this 21st day of January 2011.

s/ Vernon Benét Miles
Vernon Benét Miles
Assistant United States Attorney